

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

Crim. No. 14- *C 10051*

Violations:

**18 U.S.C. § 641 – Conversion of
Government Property –**

10 Counts;

18 U.S.C. § 1956(a)(3)(B) –

Money Laundering – 1 Count;

18 U.S.C. § 1956 (h) –

Conspiracy to Commit

Money Laundering – 1 Count;

18 U.S.C. § 1028A – Aggravated Identity

Theft – 8 Counts;

HECTOR ANTONIO CRUZ-MERCEDES

42 U.S.C. § 408(a)(7)(B) – Fraudulent

Use of a Social Security

Number – 1 Count;

Defendant.

18 U.S.C. § 3146 – Failure to Appear –

1 Count;

18 U.S.C. § 981, 982 and

28 U.S.C. § 2461 – Criminal Forfeiture

INDICTMENT

The Grand Jury charges:

Counts 1 to 10: Conversion of Government Property – 18 U.S.C. § 641

1. On or about June 7, 2012, in District of Massachusetts and elsewhere the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

did willfully and knowingly receive and intend to convert to his use and gain property of the United States government, to wit: the United States Treasury Checks listed in Counts One (1) through Ten (10), knowing said property had been embezzled, stolen, purloined and otherwise fraudulently obtained. Specifically, said Treasury checks represented the erroneous refund of United States' income tax and were issued pursuant to the filing of materially false U.S. Individual Income Tax

Returns, Forms 1040 with the United States Internal Revenue Service.

	<u>Date</u>	<u>Treasury Check</u>	<u>Amount</u>
Count 1:	05/21/2012	3158-33723614	\$ 8,449.00
Count 2:	10/21/2011	3158-02516136	\$ 9,124.00
Count 3:	10/28/2011	3158-02795471	\$ 7,692.11
Count 4:	10/07/2011	3158-02014567	\$ 7,632.00
Count 5:	05/21/2012	3158-33723615	\$ 7,731.28
Count 6:	11/18/2011	3158-03831306	\$ 7,549.29
Count 7:	10/21/2011	3158-02516085	\$ 8,758.00
Count 8:	10/21/2011	3158-02516231	\$ 6,377.97
Count 9:	11/25/2011	3158-04367909	\$ 7,326.49
Count 10:	05/18/2012	3158-33047288	\$ 5,168.00

All in violation of Title 18, United States Code, Sections 641 and 2.

The Grand Jury further charges:

Count 11: Money Laundering – 18 U.S.C. § 1956(a)(3)(B)

2. On or about May 8, 2012 in District of Massachusetts and elsewhere the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

did knowingly conduct, attempt to conduct, and cause to be conducted, financial transactions involving property represented to him to be the proceeds of a specified unlawful activity, to wit: the conversion of United States' government property which had been embezzled, stolen, purloined and otherwise fraudulently obtained. The intended financial transactions in question being a deposit of \$7,000 the defendant directed to be made to Bank of America account number 483039104073 held in the name of a third party, knowing said funds were derived from criminal proceeds, and made with the intent to conceal and disguise the nature, source, ownership, and control of said criminally derived proceeds. In accordance with the defendant's direction, on May 8, 2012 a \$5,000 deposit was made to Bank of America account 483039104073.

All in violation of Title 18, United States Code, Sections 1956(a)(3)(B) and 2.

The Grand Jury further charges:

Count 12: Conspiracy to Commit Money Laundering – Title 18 U.S.C. § 1956(h)

3. On or about April 24, 2012 through on or about June 7, 2012 in District of Massachusetts and elsewhere the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

together with others known and unknown to the Grand Jury, did unlawfully and knowingly conspire to commit violations of 18 U.S.C. § 1956(a)(1)(B)(i) for the purpose of concealing and disguising the nature, source, ownership, and control of funds represented to the conspirators to be criminally derived proceeds.

Manner and Means of the Conspiracy

4. As part of the conspiracy, and in order to further its objectives, the defendant directed co-conspirators, through cellular text messages and other means, to deposit proceeds received from the negotiation of United States Treasury checks into various bank accounts held in the names of third parties.

5. It was further part of the conspiracy that the defendant knew that the United States Treasury checks being negotiated were issued by the United States government as federal income tax refunds, and that the tax returns filed with the United States Internal Revenue Service, for the purpose of having these tax refund checks issued, were fraudulent and utilized the names and Social Security Numbers of individuals who had not authorized the filing of these tax returns or the use of their personal identifying information in this manner.

Overt Acts

In furtherance of the conspiracy the co-conspirators committed various overt acts, including:

6. On or about May 8, 2012 the defendant sent a text message from his Blackberry Curve 8530, Mobile Electronic Identifier 268435459704377020, phone number (347) 245-2491, to another cell phone, phone number (646) 410-5956, stating, “483039104073 maria martinez> banco America \$7,000.”

7. On or about May 8, 2012 the defendant sent a second text message from his Blackberry Curve 8530, Mobile Electronic Identifier 268435459704377020, phone number (347) 245-2491, to another cell phone, phone number (646) 410-5956, stating, “depositaron \$5000 mil.”

8. On or about May 8, 2012 the co-conspirator to whom the defendant was corresponding by text message directed a confidential witness, working with this investigation, to deposit \$5,000 into Bank of America account 483039104073, which was done as instructed.

All in violation of Title 18, United States Code, Section 1956(h).

The Grand Jury further charges:

Counts 13 - 20: Aggravated Identity Theft – 18 U.S.C. § 1028A

9. On or about June 7, 2012 in District of Massachusetts and elsewhere the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

did knowingly possess and use, without lawful authority, a means of identification of another person, that is, the name and social security number of eight different individuals for the purpose of obtaining a United States Treasury tax refund check, as set forth below, during and in relation to a felony.

	Name (redacted)	Treasury Check No.
Count 13	-----	3158-33723614
Count 14	-----	3158-02516136
Count 15	-----	3158-02795471
Count 16	-----	3158-02014567
Count 17	-----	3158-03831306
Count 18	-----	3158-02516085
Count 19	-----	3158-02516231
Count 20	-----	3158-04367909

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

The Grand Jury further charges:

Count 21: Fraudulent Use of a Social Security Number – 42 U.S.C. § 408(a)(7)(B)

10. On or about June 7, 2012 in the District of Massachusetts and elsewhere the defendant,
HECTOR ANTONIO CRUZ-MERCEDES,
falsely representing himself to be Pedro Julio Colon, intentionally and deceptively used Social Security Number *****5625 to obtain a Massachusetts Driver's License and a United States Social Security Card full well knowing and believing that Social Security Number *****7940 was issued to another individual named Pedro Julio Colon, a resident of Puerto Rico.

All in violation of Title 42, United States Code, Section 408(a)(7)(B).

The Grand Jury further charges:

Count 22: Failure to Appear – 18 U.S.C. § 3146

11. On or about August 24, 2012 in the District of Massachusetts and elsewhere the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

having on August 16, 2012 been Ordered by the Honorable Andrew J. Peck, Magistrate Judge in the Federal District Court for Southern District of New York, to appear before the United States District Court for the District of Massachusetts on or before August 24, 2012, in accordance with a Criminal Complaint and Arrest Warrant issued from that Court on August 9, 2012 charging the defendant with a violation of 42 U.S.C. § 408(a)(7)(B), failed to appear as Ordered.

All in violation of Title 18, United States Code, Section 3146.

Conversion Forfeiture Allegation (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

The Grand Jury further charges:

12. Upon conviction of one or more of the offenses in violation of 18 U.S.C. § 641, charged in Counts One through Ten of the Indictment, the defendant,

HECTOR ANTONIO CRUZ-MERCEDES

shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offenses.

13. If any of the property described in paragraph 1 hereof as being forfeitable pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), as a result of any act or omission of the defendant--

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of this Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of all other property of the defendant up to the value of the property described in paragraph 1 above.

All pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c).

Money Laundering Forfeiture Allegation (18 U.S.C. § 982(a)(1))

The Grand Jury further charges:

14. Upon conviction of one or more of the offenses in violation of 18 U.S.C. § 1956, charged in Counts Eleven and Twelve of the Indictment, the defendant,

HECTOR ANTONIO CRUZ-MERCEDES,

shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), any property, real or personal, involved in such offense, or any property traceable to such property.

15. If any of the property described in paragraph 1 hereof as being forfeitable pursuant to 18 U.S.C. § 982(a)(1), as a result of any act or omission of the defendant--

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of this Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to 18 U.S.C. § 982(a)(1), incorporating 21 U.S.C. § 853(p), to seek forfeiture of all other property of the defendant up to the value of the property described in paragraph 1 above.

All pursuant to Title 18, United States Code, Section 982(a)(1).

A TRUE BILL



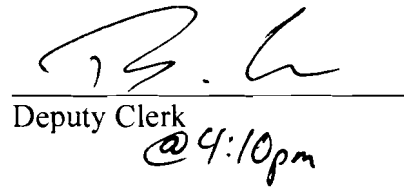
COREY J. SMITH
Senior Litigation Attorney
Department of Justice
Tax Division


FOREPERSON OF THE GRAND JURY

DISTRICT OF MASSACHUSETTS

February 26, 2014

Returned into the District Court by the Grand Jurors and filed.


Deputy Clerk
@ 4:10pm